

**MINUTES
of the
SIXTH MEETING
of the
REVENUE STABILIZATION AND TAX POLICY COMMITTEE**

**December 15-16, 2015
State Capitol, Room 322
Santa Fe**

The sixth meeting of the Revenue Stabilization and Tax Policy Committee (RSTP) for the 2015 interim was called to order by Senator Carlos R. Cisneros, chair, on Tuesday, December 15, 2015, at 9:15 a.m. in Room 322 of the State Capitol in Santa Fe.

Present

Sen. Carlos R. Cisneros, Chair
Rep. Jason C. Harper, Vice Chair
Sen. Sue Wilson Beffort
Rep. David M. Gallegos (12/15)
Rep. Antonio Maestas
Rep. Rod Montoya
Sen. Mark Moores
Sen. George K. Munoz (12/16)
Rep. Debbie A. Rodella
Sen. Clemente Sanchez
Sen. William E. Sharer
Sen. John Arthur Smith
Rep. James R.J. Strickler
Rep. Carl Trujillo
Rep. Jim R. Trujillo
Sen. Peter Wirth (12/15)

Absent

Sen. Ted Barela
Rep. Tim D. Lewis

Designees

Rep. David E. Adkins
Sen. Jacob R. Candelaria (12/15)
Rep. Sharon Clahchischilliage (12/15)
Sen. Lee S. Cotter
Rep. Randal S. Crowder
Rep. Miguel P. Garcia (12/16)
Rep. Bealquin Bill Gomez
Rep. Conrad James (12/16)
Rep. Idalia Lechuga-Tena
Rep. Bill McCamley

Sen. William F. Burt
Rep. Brian Egolf
Rep. Stephanie Garcia Richard
Sen. Stuart Ingle
Sen. Gay G. Kernan
Rep. Javier Martinez
Sen. Nancy Rodriguez
Rep. Tomás E. Salazar
Sen. John M. Sapien
Rep. Jeff Steinborn
Rep. James G. Townsend
Sen. Pat Woods

Guest Legislators

Rep. Alonzo Baldonado (12/15)
Rep. Roberto "Bobby" J. Gonzales
Rep. Jimmie C. Hall (12/15)
Rep. Larry A. Larrañaga (12/16)
Sen. Cisco McSorley (12/15)
Sen. Mary Kay Papen (12/15)
Sen. Cliff R. Pirtle (12/15)
Rep. Jane E. Powdrell-Culbert (12/16)
Rep. Larry R. Scott
Rep. Don L. Tripp (12/16)

(Attendance dates are noted for members not present for the entire meeting.)

Staff

Pam Stokes, Staff Attorney, Legislative Council Service (LCS)
Amy Chavez-Romero, Assistant Director for Drafting Services, LCS
Rebecca Griego, Records Officer, LCS
Tessa Ryan, Staff Attorney, LCS

Minutes Approval

Because the RSTP will not meet again this interim, the minutes for this meeting have not been approved.

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file.

Tuesday, December 15**Impact of Tax Policy on Child Poverty and Hunger**

Amber Wallin, director, New Mexico KIDS COUNT, and Bill Jordan, senior policy advisor/governmental relations, New Mexico Voices for Children (Voices for Children), gave a presentation on poverty, food insecurity and tax policy in New Mexico.

Health-impact assessment. Ms. Wallin described as follows the findings of a recent study conducted by Voices for Children to assess the effects on health of taxing the sale of food. Their findings included that: 1) only two states, Mississippi and Alabama, tax food at the regular tax rate; those states, like New Mexico, rank low in child well-being; 2) among states, New Mexico has the highest child-poverty rate, and its economic recovery is stagnant; 3) among states, New Mexico has the highest percentage of low-income working families; 4) the lower a worker's income, the greater the proportion of that income is spent on food; 5) New Mexico's

high poverty rates mean that many New Mexicans spend a high proportion of their income on food; 6) despite program efforts to counteract the hunger problem, 28% of New Mexico children are still food insecure; 7) food insecurity and access to food are two of the state's major problems and are particularly pervasive in rural counties; 8) in part because they are used up quickly and not utilized by many low-income New Mexicans, Supplemental Nutrition Assistance Program (SNAP) benefits are inadequate to combat food insecurity; and 9) New Mexicans vulnerable to food insecurity often choose between buying nutritious food or: buying unhealthy food; paying for utilities; paying for medical care; and making rent or mortgage payments.

Two other aspects of the assessment, a review of relevant literature and stakeholder feedback, underscored many of the assessment's conclusions. The literature review revealed correlations between: poverty and health; the cost of food and the amount of nutritious food consumed; the amount of nutritious food consumed and health, school performance and child development; and government spending and health. In the three focus groups convened around the state, stakeholders articulated their observations that even modest increases in the cost of food detrimentally affect health and educational performance.

In sum, the assessment found almost universally poor outcomes, particularly on human health, resulting from an increase in costs brought on by a tax on the sale of food. The potential upside of such a tax is higher government revenues and greater public spending to improve residents' health.

Tax policy. Mr. Jordan discussed Voices for Children's stance on tax policy in the context of a hypothetical reimposition of the gross receipts tax (GRT) on the sale of food. Underlying that stance are the goals of reducing poverty, reducing hunger and improving health, the economy and child well-being — outcomes that state tax policy can influence. To these ends, Voices for Children recommends that the state: not reimpose the GRT on the sale of food; generate revenue in ways that do not harm residents' health or promote regressiveness in the tax system; and increase the tax credits that help low-income families with children. A recent poll revealed New Mexicans' shared opposition to taxing the sale of food, even if the tax were part of a proposal to lower the overall sales tax rate. Although Voices for Children previously opposed the GRT deduction on the sale of food (food deduction), it has since determined that repealing the deduction would impede efforts to end child poverty. That is, reimposing the tax would worsen tax regressiveness and inequality across income strata.

Mr. Jordan cited some options for generating more revenue and improving fairness in the tax system: 1) require combined reporting for all corporate income tax (CIT) filers; 2) establish a new personal income tax (PIT) rate of 5.9% for higher-income taxpayers; 3) tax internet sales; 4) suspend for one year the CIT incremental rate decrease; 5) repeal the 50% capital gains deduction, which Mr. Jordan characterized as one of the state's most regressive tax breaks; 6) increase the working families tax credit; 7) increase the low-income comprehensive tax rebate (LICTR); and 8) create a new child tax credit.

Mr. Jordan also stressed the importance of three tax-policy principles in particular: adequacy, equity and accountability. Of these, he said, accountability is essential to wise investment of state resources.

Questions and Discussion

On questioning, the presenters and committee members addressed the following topics.

Voices for Children's recommendations and tax reform proposals. Members reacted to the proposed tax policy changes by: expressing skepticism that any of the proposals could succeed in the current political environment; suggesting that the organization consider measures for reducing poverty that are more politically feasible; proposing an ongoing dialogue on options for reducing poverty and improving child well-being; urging the presenters to help lawmakers find solutions to the problems discussed by providing more policy-related data and being more open to all options for tax reform; and sharing in the presenters' concern for New Mexicans who struggle financially. A member pointed out that, even with the food deduction, New Mexico ranks last in child well-being. The member also expressed frustration with aspects of the current system, in which the poor pay the GRT on low-cost prepared meals at fast-food restaurants, but the rich do not owe the tax on luxury foods bought at high-end grocery stores. Another member criticized the administration's blanket refusal to raise tax rates or establish new taxes and its opposition to tapping the Land Grant Permanent Fund (LGPF) to pay for social welfare programs, characterizing those stances as a self-imposed hindrance to governing.

Reimposition of the GRT on the sale of food. In response to Voices for Children's recommendation that the GRT on the sale of food not be reimposed, members offered the following remarks: efforts to reform the broken GRT system by removing carve-outs and imposing the lowest-possible GRT rate will be undermined by a carve-out for food; the provision of social welfare programs is diminished by carving out food from the GRT base; it might be the case that reimposing the tax and enacting a drastically lower GRT rate would have a net positive effect on the poor; a tax-reform proposal should be adopted only if the poor experience a net benefit from its adoption; and it would be better for the poor to pay 2% on all purchases, including food, than over 8% on all purchases but food. One member relayed having heard that an Oregon study on comprehensive sales tax reform determined that, with a very broad base, the state's sales tax rate could be as low as 1% and still generate sufficient revenue. Mr. Jordan responded that New Mexico could enact base-expanding, rate-reducing GRT reform without taxing food; other states have tax systems resembling that model.

Members also expressed interest in hearing testimony pertaining to: data that show the effects of having removed the tax on the sale of food; the projected effects of excluding food from the GRT base if base-expanding, rate-reducing GRT reform were implemented; proposals for offsetting the negative repercussions to the poor of a reimposition of the tax; and the effects of the current GRT rates — many in excess of 8% — on the poor. Ms. Wallin responded that answers to many of those the questions are hard to tease out of existing data.

Poverty. Members commented on the problem of poverty. One member pointed out that the state has tried to temper poverty through a wide variety of approaches, but poverty still abounds. Lawmakers, therefore, should try different approaches to the problem, including that of nurturing a business climate that encourages small businesses to thrive and out-of-state businesses to locate in New Mexico. The current system fails in both of these respects; rather, it encourages lobbyists to advocate for tax breaks. Lawmakers should strive to find a balance in the tax system that promotes employment opportunity and reduces poverty.

SNAP benefits; poll on taxing the sale of food. Ms. Wallin said that the amount a household receives in SNAP benefits depends on its size and income and that the average per household benefit is about \$130 per month. Mr. Jordan clarified that the poll referred to in the presentation does not specify a GRT rate, such as 2%, when asking respondents whether they would support a tax on food in conjunction with a lower overall GRT rate.

Fiscal and Equity Impacts of the Food Deduction

Brian McDonald, an economist, talked about the fiscal effects of the food deduction and the degree to which it has promoted fairness in taxation. He opened by summarizing his professional background and noting that his presentation was intended to inform lawmakers, not to advance a particular position.

Background on the food deduction. In 2004, a bill was signed into law that, among other measures: removed the GRT on sales of groceries; increased the municipal GRT rate; compensated local governments for the food deduction by providing for state-remitted hold harmless payments; and reduced PIT rates. The hold harmless provision resulted in significant revenue loss to the state. In fiscal year (FY) 2012, the hold harmless payments totaled about \$227.3 million, or 10% of annual general fund GRT revenue. To curb that loss, the legislature in 2013 enacted a 15-year phase-out of certain hold harmless payments and an authorization for local governments to enact additional GRT increments.

2004 measure's effects. The 2004 bill was intended to relieve the financial burden of low-income residents, but that goal was arguably not achieved. Before and after the law's enactment, that segment of the population, which constitutes a substantial proportion of the total population, generally received SNAP benefits. Food purchased through SNAP, which represents a relatively high share of the food that low-income residents buy, is not taxed; hence, the food deduction somewhat missed its mark. Instead, it mostly benefited and continues to benefit middle- and upper-income households. Furthermore, a look at data for the year 2011 reveals that, had the 2004 law not been enacted, the state could have used the \$227.3 million in hold harmless payments to supplement (through, for example, the LICTR program) by about \$955 per household the income of residents who fall in the lowest quintile in the measure of income. In contrast, the food deduction saved those households only about \$86.00 per year.

Meanwhile, other negative aspects feature prominently in the 2004 law. It increased the municipal tax on all non-food purchases; exacerbated the business tax pyramiding problem; heightened the Taxation and Revenue Department's (TRD's) administrative burden; neglected to

enhance programs targeted to low-income residents or to extend the deduction to other types of purchases low-income residents make; and enriched high-income taxpayers' wealth by lowering the top PIT rates.

Mr. McDonald summarized by remarking that lawmakers should recognize that the 2004 law's measures do not help the poor. Reinstating the GRT on the sale of food and reducing the GRT rate would.

Questions and Discussion

On questioning, Mr. McDonald and the committee addressed the following topics.

Data. Members indicated that answers to the following questions would be helpful for shaping effective food-tax-related policy. 1) What proportion of low-income households' total food purchases consist of prepared foods? 2) To what degree would a food tax drive the poor to buy inexpensive, unhealthy food? 3) What are the governmental costs of providing health care to treat the effects of that increased unhealthy food consumption? 4) How many residents would qualify for the LICTR but do not receive it because they do not file a tax return? 5) Has any state found a way to target, through means other than the tax system, financial relief to residents in the lowest quintile in measure of income? 6) To what degree does the TRD still advertise the federal earned income tax credit and the LICTR and the fact that residents need not owe taxes to get those programs' benefits? Mr. McDonald suggested that the TRD and the U.S. Census Bureau survey on "food consumed at home" are possible sources for some of that information.

A member remarked that discrepancies in the conclusions from the two presentations should be reconciled.

Reimposing the GRT on the sale of food — effects on the poor. Members highlighted shortcomings of the proposal that would both reimpose the GRT on the sale of food and direct some of the increased GRT revenue to the poor through tax credit programs like the LICTR: the financial aid arrives in a lump sum, not evenly over the course of the year; and those who do not file tax returns would miss out. Mr. McDonald offered, and noted that the TRD could offer, suggestions to overcome those obstacles. Under a similar federal program, a recipient's employer, through its payroll system, could serve as an agent in distributing even installments of the aid, or local governments could help with that distribution. Mr. McDonald pointed out that some recipients prefer lump-sum payments of such benefits. A member countered that some recipients are self-employed or unemployed and also noted the importance of analyzing the relative efficiency of any such proposal.

The working poor. Members expressed a concern for not only the people at the low end of the economic spectrum, but also for those in the second-lowest quintile in measure of income. The latter group generally struggles financially but earns incomes that exceed the limits of programs such as SNAP. Mr. McDonald explained that the SNAP and other social welfare programs calculate benefits on a continuum. A member requested information on the percentage of SNAP recipients at the second-lowest quintile in measure of income, characterizing those

people as one paycheck away from catastrophe. Mr. McDonald offered that those people could be helped through property tax or income tax relief.

Revenue stability. Members stressed the importance of revenue stability. They commented that: 1) what hurts the poor is poorly funded or unfunded social welfare programs, and the strength of the LGPF should be maintained since the fund generates money for such programs, is reliable and offsets residents' tax burdens; 2) unlike that from the LGPF, the revenue stream from the oil and gas sector is volatile; 3) GRT reform should be broad; 4) the state took a hit when it enacted the 2004 reform, and had that not been enacted, there would be more money for education and social services; 5) if the CIT were lifted, it would be extremely difficult to reestablish; and 6) lawmakers should consider adding junk food to the GRT base. A member requested a comparison of the state's hold harmless payments for July, August and September of last year with those months, respectively, in 2015, which were after the hold harmless phase-out began. The member pointed out that local governments benefit twice when they collect both hold harmless payments and revenue from the GRT increment allowed by 2013 legislation. Mr. McDonald submitted that a GRT on the sale of food would help stabilize revenues and that dependence on the energy sector for recurring revenues is destabilizing.

Determine In-State Sales of Intangibles and Services Based on Market Sourcing Instead of Cost of Performance (.202108.2)

Senator Wirth presented the draft of a bill that would change the calculation of the CIT by assigning the sales of services and intangible goods to the state in which they are sold, rather than the state in which the cost of performance is incurred. With no opposition, the committee endorsed the bill.

GRT Deduction for Sales Made on Small Business Saturday by New Mexico Businesses and Restaurants (.202293.2)

Representative Adkins presented a draft of a bill that would lift the GRT for purchases at small, in-state retail businesses and restaurants on the Saturday after Thanksgiving. The proposed measure was designed to help redirect much of consumers' holiday spending away from large-scale and online retailers to local "mom and pop" businesses. Helping those kinds of establishments strengthens local economies, employment and charitable giving. If the measure were enacted, the state would most likely forego less than \$700,000 in revenue.

Questions and Discussion

In response to a member's point that the measure would benefit consumers who would have patronized such establishments even without the deduction, Representative Adkins said that, still, the incentive would produce a net increase in small-business revenue. Representative Adkins clarified that the deduction would apply to both the local and state portions of the GRT. A member suggested that the committee not endorse the bill until revenue predictions for the coming fiscal year were better known.

No motion was made to endorse the bill.

Economic Outlook

Jeff Mitchell, director, Bureau of Business and Economic Research (BBER), University of New Mexico (UNM), reported as follows on the national and state economies. He noted that the U.S. economic outlook plays heavily in the state economic forecast and that the data and assumptions informing the outlook for those economies were approximately one month old.

Measures of recent U.S. economic activity. Overall, the national economy shows signs of growth — but also areas of weakness. The gross domestic product (GDP) grew in 2015, but the growth rate was uneven. Employment levels have increased since September, and unemployment is at a relatively low 5.0%. The Consumer Confidence Index shows that consumer confidence is stronger than it has been since before the recession. Meanwhile, oil prices have fallen dramatically since June 2014. The S&P 500 indicates strong fluctuations in financial markets, and the housing market, though improving slowly, is still weak.

Forecasts for the national economy. The predictions for the U.S. economy are based on the following assumptions: 1) there will be no upheaval in federal budget development; 2) the federal funds rate will increase at the end of 2015 and reach 3.25% by the end of 2017; 3) there will be relatively slow growth in trade among major trading partners; and 4) the average per barrel prices of West Texas Intermediate oil will be \$48.00 in 2015, \$51.00 in 2016, \$59.00 in 2017 and \$74.00 in 2018.

Key economic indicators are forecast through 2020 as follows: 1) interest rates will rise moderately and then level off in about 2018; 2) oil spot prices will generally increase modestly, and gas spot prices will remain subdued; 3) there will be slow growth in the GDP; and 4) there will be slow growth in employment, and most of that growth will be concentrated in the professional and business services sector.

New Mexico economic review and outlook. Although nationwide employment returned to pre-recession levels in December 2013, New Mexico's employment is about 1% below its pre-recession level. Since a period of dramatic growth that ended in 2012, New Mexico's mining employment has slowed, although somewhat less than that of the nation. Overall, however, New Mexico's employment has improved in the last year, with growth concentrated in the health care and social assistance sectors. The spike to 6.8% in September of the state's unemployment rate shows that more people are looking for jobs, which can be seen as a good sign.

In non-employment-related measures, over the last year in New Mexico: home sales improved but values remained flat; income growth was weak; Medicaid transfers bolstered personal income growth; and oil rig counts fell sharply. Though oil prices have plummeted, the state recently experienced record oil production levels. That level of activity could be due to pressure on producers to pay debt or to producers having previously locked in to higher prices.

Key economic indicators for New Mexico through 2020 are as follows: 1) employment will be weak in the short term but should pick up by the end of 2016 and then remain steady; 2) most new jobs will be in the health care and social assistance sectors and in urban areas of the

state; 3) personal income growth will be at about 5% after 2016; 4) employment will gain strength, reaching pre-recession levels in about mid-2017; 5) personal income growth will remain steady; and 6) housing permit issuance will continue on an upward track. There is a 15% chance that the economy will perform better — and a 20% risk that it will perform worse — than that forecast. New Mexico's post-recession recovery, compared with that of the nation, lags in part because of professional and business services sector jobs, which improve the overall economy.

Questions and Discussion

On questioning, Mr. Mitchell and committee members discussed the following topics.

Other economic indicators. A member asked about other areas of the economy that contribute to and mark its strength, including car sales, tourism and agricultural commodity prices. Mr. Mitchell noted that higher-than-average delinquencies in car and education loan payments seen in the state's southeast and northwest regions are most likely attributed to the recent turmoil in the oil and gas industry, which is concentrated in those regions. He also said that, in the presentation handout, tourism is captured in the "leisure and hospitality" category of employment data charts and that, although stymied by seasonal employment shifts, that sector performs relatively well.

In response to a member's questions about commercial property vacancies and manufacturing, Mr. Mitchell said that: 1) commercial and industrial properties tend to fill up in a well-performing overall economy, and those vacancies are a sign of weakness in the professional and business services sector; 2) the weakness in manufacturing sector job creation stems to the 1990s; 3) the "advanced manufacturing" sector, which is marked by speedy product turnaround, high-skilled and high-paying jobs, capital intensiveness and geographically broad markets, tends not to have a substantial presence in New Mexico. Moreover, he said, New Mexico's qualities lend themselves moderately well to business creation but not to business growth, which requires a broad range of supports.

Health care. Mr. Mitchell said that the expansion of Medicaid in the state is creating jobs in the health care sector. In time, he said, overall state fiscal health will suffer from the increasing state fiscal responsibility for that expansion, but it will be tempered somewhat by the increases in revenue from the insurance premium tax and the expansion's other side effects.

BBER. Mr. Mitchell said that the BBER has between eight and 10 full-time employees and between 10 and 15 student workers, who are mostly graduate students. Increasingly, the BBER faces funding challenges, like that stemming from UNM's view that the BBER's work falls outside the university's core mission. Consequently, the BBER seeks funding from other sources.

Economic drivers. A member commented that Albuquerque is an important driver of the state's economy. The member asserted that the state's current approach to helping the economy — shrinking government and reverting money to the general fund — is not working.

Economic data. Mr. Mitchell said that data from Indian lands are counted in economic-data surveys and that employers supply much of those data in accordance with federal law.

Revenue Forecast

Elisa Walker-Moran, chief economist, TRD; Clinton Turner, chief economist, Department of Finance and Administration (DFA); Tom Clifford, secretary of finance and administration; and Christina Keyes, Legislative Finance Committee (LFC), reported as follows on the Consensus Revenue Estimating Group's (CREG's) recently revised revenue forecast.

Report from TRD. Ms. Walker-Moran talked about: historical and projected revenue figures for the compensating tax, the CIT and severance taxes; legislative changes to liquor tax revenue distributions; oil and natural gas prices, production and rig count; risks to the forecast; and proportion by source of FY 2015 revenues. The CREG predicts lower compensating tax revenue for future years. Meanwhile, the group revised downward the previous forecast of CIT revenues in light of changes in expectations for oil and gas prices, net operating losses and corporate profits. In the area of severance taxes, the forecast reflects lower projected prices but strong production, which can be attributed in part to technological advances and the prevalence of horizontal rigs. Lastly, the CREG predicts that state liabilities associated with the high wage jobs tax credit will taper off and that the federal government will boost spending in the state.

Report from the DFA. Mr. Turner next focused the presentation on the national economy, employment in the state, the GRT base, energy markets, the state's oil and gas revenues, oil production and general fund revenue and balances. The national economy has strengthened, and consumer spending is expected to increase. Employment in the state is growing, albeit slowly. The drop in gas prices and the November federal budget deal will boost consumer and federal spending in the state. The GRT base is growing, particularly in the area of construction and services. Meanwhile, it is believed that market forces will increase the prices of oil and gas. In the area of revenue to the general fund, growth in recurring revenue has waned, and \$232 million in "new" money, 3.7% more than in FY 2016, is expected to be available for FY 2017.

Mr. Turner and Secretary Clifford highlighted some positive aspects of the state's energy picture: oil production volumes are increasing, even though U.S. production levels have declined; New Mexico has one of the best oil basins; and the nation, compared with the world, is politically stable.

Secretary Clifford commented as follows on the state budget and the administration's spending priorities. Unlike some states, New Mexico has a healthy and stable budget, despite federal spending cuts and the dramatic fall of oil and gas prices. To maintain budget health, the administration focuses on restraining government growth, spending wisely and maintaining a reserve of about 10%. The forecast for revenue growth was developed cautiously and with various risks in mind. In developing a proposed budget, the administration focused on spending more in the areas of Medicaid, public safety, education and economic development and on targeting hard-to-fill positions for compensation increases. In tax policy, the administration

strives to help small businesses grow and to recruit new businesses. Meanwhile, it is estimated that \$140 million will be available for statewide capital outlay projects. The administration believes that capital outlay reform is needed. Finally, the state's financial reporting system has been stabilized, and the second phase of the reconciliation process is under way.

Report from the LFC. Ms. Keyes reiterated some of the key figures cited by the previous presenters in the areas of new money, general fund recurring revenue and forecast revisions and summarized as follows New Mexico's post-recession recovery and job growth, oil and gas prices and risks to the revenue forecast. The state has lagged behind the nation in post-recession economic recovery, in large part because of problems in employment and income levels and the labor market. The price of oil is forecast to rise modestly but steadily, and the price of gas is forecast to increase generally but to fluctuate. Lastly, risks to the forecast include the increasing number of non-GRT-generating online sales and the phase-out of hold harmless payments.

Questions and Discussion

On questioning, the presenters and committee addressed the following topics.

GRT revenue. Responding to questions about GRT revenue collections and projections: 1) Secretary Clifford clarified that GRT revenues are projected to grow but not at a steady rate, and Medicaid expansion boosted some of the GRT revenue growth in FY 2015; 2) Mr. Turner explained that the drop in the gross receipts base from FY 2015 to FY 2016 was due in part to the high wage jobs tax credit, changes to which will be seen in FY 2017; 3) Ms. Walker-Moran indicated that the projected growth in GRT revenue is also due to projected increases in federal spending; 4) Mr. Turner said that the GRT revenue forecast reflects increases in spending by consumers from savings on gasoline sales; and 5) Ms. Keyes said that determining the amount of GRT revenue lost to online sales from retailers without a physical presence in the state is difficult and would require extensive study.

Tax credits. Secretary Clifford noted that the administration wishes to continue discussions on renewable energy and other types of tax credits and to examine the value of those credits in relation to each other. A member spoke in favor of the solar energy tax credit, whose extension the governor vetoed, saying that it is a big job creator and that its efficacy will be bolstered by the recent extension of a corresponding federal measure.

Oil and gas-related revenues. Mr. Turner and Secretary Clifford explained how the CREG determines the average price of oil. The determination relies on data collected from tax returns, New York Mercantile Exchange reports and other forecasting services. A member commented that federal over-regulation hurts the oil and gas industry and that the state should do what it can to help it, including protecting wells.

Forecast. A member remarked that the CREG should be more conservative with its estimates, since the state must balance its budget and since a healthy reserve level is important.

Appropriations for courts and the Public Defender Department. A member commented that, although the courts' and public defenders' requested appropriations are too high, lawmakers should understand that fiscal restraint in that area will affect crime levels and the quality of the state's criminal justice system.

Referrals from the Transportation Infrastructure Revenue Subcommittee

Towing and repair vehicles in emergencies (.202319.1). Mark Edwards, staff attorney, LCS, presented the draft of a bill that would require drivers who approach pulled-over towing vehicles and roadside-repair vehicles with lights flashing to exercise the same caution required when those drivers approach fire and law enforcement vehicles in those circumstances. Johnny R. Johnson, managing director, New Mexico Trucking Association, Inc., who was in the audience, expressed support for the bill, saying that every other state has enacted such a measure.

With no opposition, the committee endorsed the bill.

Joint resolution to dedicate revenue from increased taxes and fees on motor vehicles and motor vehicle fuels to transportation infrastructure (.202268.1). Mr. Edwards presented the draft of a joint resolution that would propose a constitutional amendment to require the legislature, when it imposes a new motor vehicle-related tax or fee, to dedicate the revenues from that assessment to transportation infrastructure projects.

With six members in opposition, the committee voted against endorsing the bill.

GRT Deduction for Payments from the Federal Energy Employees Occupational Illness Compensation Program Act of 2000 for Services Provided by a Home Health Agency (.202047.2)

Richard Minzner, a lobbyist, presented the draft of a bill that would allow a deduction from gross receipts for home health services when paid for through a federal program dedicated to helping people who became ill while working for the U.S. Department of Energy or its contractors. Mr. Minzner explained that several medical services-related deductions have been enacted since 1998 and argued the fairness of adding this deduction. Mr. Minzner also said that a fiscal impact report (FIR) on this measure had not been prepared, but he believes that the cost to the state would be modest; if it were not, he would propose phasing in the deduction.

Questions and Discussion

On questioning, Mr. Minzner said that the FIR would reveal the number of state residents who participate in the federal program. A member remarked that the benefit would largely fall in rural, mining-heavy areas of the state. Some members noted that their vote against the proposal would express a distaste for creating further holes in the tax system, not an objection to the proposal's underlying policy. Mr. Minzner responded by saying that if the GRT system were reformed to broaden the base and lower the rate, this deduction would go away; but until then, adding this deduction would improve fairness.

Members of the audience stood in support of the proposal. They were: Karen Wells, a lobbyist for New Mexico Advocacy for Home Health Care and Hospice; Mollie Mouton, New Mexico regional director, Professional Case Management; and Corbin Craig, Giving Home Health Care, LLC.

With seven members in opposition, the committee voted against endorsing the bill.

Premium Tax Update

John Franchini, superintendent of insurance, gave background on the insurance premium tax and an update on the Office of Superintendent of Insurance (OSI) revenues and distributions as follows.

Premium tax. The tax generates a substantial portion of the OSI's annual revenues, which in FY 2015 reached nearly \$300 million. That revenue is deposited in the general fund and other funds and is used for the OSI's operations. The premium tax of 3.003% and a health insurance surtax of 1% are levied on a variety of types of insurance transactions. With some exceptions, the surtax applies to health insurance premiums, memberships and policy fees. Certain other types of transactions, which are government- and workers' compensation-related, are exempt from both taxes. Except for the property tax, insurance companies pay no state tax other than the premium tax. Portions of the premium tax and surtax are due quarterly, and some deductions and credits may be taken.

Revenue collection and distribution. Superintendent Franchini reviewed financial charts showing: the amounts in premium taxes remitted in FY 2011 through FY 2015 and medical insurance pool credits taken in calendar years 2012 through 2014; revenue by type for FY 2010 through FY 2015; revenue collections and distributions for FY 2007 through FY 2010; and revenue collections and distributions for FY 2011 through FY 2015. He also noted that: the OSI's total revenue rose relatively sharply in FY 2015 due largely to the expansion of the Medicaid program; distributions to the Insurance Operations Fund and the Fire Protection Fund are rising; and through the OSI's auditing efforts, more tax revenue was collected in each of the months of April, July and October of 2015 than in those months, respectively, in 2014.

Law-related initiatives. Lastly, Superintendent Franchini talked about the OSI's law-related initiatives. He remarked that a bill from the 2015 regular session would have simplified the quarterly payment provisions and based the calculation of those payments on the taxpayer's quarterly actual earnings. That measure will be pursued again in the upcoming session. Meanwhile, the OSI recently issued a bulletin clarifying the application of the medical insurance pool credit and a bulletin clarifying which policies are subject to the surtax. Having discovered that the latter bulletin's language was too broad, the OSI will schedule a hearing on the issue to revise the language. Superintendent Franchini highlighted other amendments to the New Mexico Insurance Code that the OSI will legislatively pursue, and he noted that the work on a special audit of premium tax collections, for which a special appropriation was made, will begin in January.

Questions and Discussion

Medical insurance pool and other health insurance plans. A member relayed the experience of a cancer-stricken constituent who, having lost the option to stay in a preferred provider organization (PPO) plan, had difficulty seeking coverage through the medical insurance pool. Her out-of-state doctor was not in her health maintenance organization (HMO) plan network, and because of her predicament, the constituent was considering leaving the state. Superintendent Franchini noted that some HMOs have wide provider networks. He advised the member to have the constituent call the OSI for further guidance. Superintendent Franchini also commented that the effects of new federal requirements have influenced insurance companies' decisions to quit offering PPO plans; however, amendments to those requirements are being enacted.

Premium tax revenue. A member spoke in favor of creating a distribution from the revenue collected from the premium tax to a forest and watershed restoration fund.

Bulletins. Superintendent Franchini explained that bulletins are the OSI's official statements clarifying aspects of the laws it administers. The bulletin for which the hearing is scheduled relates to the categories of companies that must pay the 1% surtax.

Requests for information. Superintendent Franchini agreed to provide information on: 1) the amounts distributed from the Fire Protection Fund to municipalities and counties; and 2) the amounts collected for each of the five taxpayer types listed on page 6 of the handout.

Approval of Minutes

On a motion made and seconded, the minutes from the October meeting were adopted without objection.

Recess

The committee recessed at 5:12 p.m.

Wednesday, December 16

The committee reconvened at 9:13 a.m. on Wednesday, December 16, 2015, with Senator Cisneros chairing the meeting.

Global Contraction in Hydrocarbon Trade and Investment

Colin P. Fenton, managing partner, Blacklight Research, LLC, gave a presentation as follows on global issues surrounding the price, demand and production of hydrocarbons as they might affect New Mexico and other states dependent on revenues from oil and gas production.

Factors influencing hydrocarbon production. Many factors have contributed to recent distress in the oil industry. Global leaders, aiming to curb climate change, have committed to reducing the world's dependence on fossil fuels. The production of solar and other renewable energies has increased. Meanwhile, China, whose crude oil import levels heavily influence the

global crude oil outlook and, in turn, the outlook for New Mexico, has enacted policies that contribute to the reduced demand for fossil fuels, and the country has been experiencing economic distress. Nevertheless, China is on track to become the world's largest crude oil importer. These and other factors have caused shifts in oil price and demand. High volatility markedly characterizes the price and production of oil.

Response to fluctuation. Because of the recent changes in oil price and demand, domestic oil producers have been under stress. They have cut back their production and have adjusted their capital, labor and physical stock. North Dakota producers have been especially hard hit.

Future of the industry. The future of hydrocarbon trade and investment is uncertain. Many factors shape that future. On a global level, there are signs of geopolitical unrest, including strife between members of the Organization of the Petroleum Exporting Countries. Meanwhile, the United States is considering lifting its ban on crude oil exports. All in all, the future of the oil industry is not only uncertain, but impossible to predict.

Mr. Fenton observed that the lifting of the export ban, the quality of New Mexico's crude oil and the nation's relative political stability will favorably influence New Mexico's oil industry.

Questions and Discussion

On questioning, Mr. Fenton and committee members discussed the following topics.

China's energy supplies. Mr. Fenton indicated that China has recognized its historic over-use of coal and has adjusted by making a transition to nuclear power. The country gets uranium for that purpose from Africa.

Dependence on the oil industry. Mr. Fenton expressed his belief that having a heavy oil industry presence is beneficial economically and geopolitically. He argued that hydrocarbons will always be used; the question is how to use them, i.e., how to draw them from the atmosphere to produce something useful on the ground.

Prospects for New Mexico's oil and uranium industries. Mr. Fenton cited as positive signs for New Mexico's oil industry that: China prefers to import oil from the United States because of the reliability of its supply; New Mexico is geographically advantaged; and the type of oil in New Mexico is in relatively high demand. Nonetheless, he said, New Mexico's oil industry still faces hurdles. Mr. Fenton suggested that a rapid loss of employment in the industry and a loss in inventories might signal the start of a prolonged period of low oil prices, such as that which occurred in 1986. He noted that New Mexico could counteract the negative effects of a potential contraction in the oil industry by hedging its investments; that is, it could enter investment markets by buying futures and locking in prices. To pursue that option prudently, he said, the state would need impartial advisors who could lay out an array of options. As for the prospect of growth in uranium mining in New Mexico, Mr. Fenton commented that there is a

good chance that nuclear power development will increase, because that form of energy is reliable.

Future of other energy sources. Mr. Fenton and a member recognized some weaknesses characterizing renewable energies: unreliability and inefficiency in storage. Mr. Fenton said that biofuels' utility has probably peaked. He commented on the likelihood that the price of lithium will spike in response to the growing demand for Tesla cars. In general, he stressed, much is unknown, and it is exaggerated how much is known about the present and the past.

Legislative Proposals

Creating the Accounts for Persons with Disabilities Act (.202202.1). Representative Sheryl Williams Stapleton, Representative James and Nell Graham Sale, partner, Pregenzer, Baysinger, Wideman & Sale, PC, presented the draft of a bill that would allow New Mexico to participate in a program established by the federal Achieving a Better Life Experience Act of 2014. Through the program, people may contribute money to tax-free savings accounts whose deposits can be used for qualified expenses. Representative Stapleton indicated that the bill did not pass last year, and the measure was determined to have no fiscal impact. She also noted that the State Treasurer's Office (STO), which would help administer the program, supports the bill. Representative James added that the work on the bill in the 2015 regular session will be helpful going forward and that 34 states have adopted the program. Ms. Sale characterized the measure as a big benefit for account holders. In response to a member's question, a representative from the STO, who was in the audience, said that the office would contract for the service of determining account eligibility.

With no opposition, the committee endorsed the bill.

Technology maturation assistance GRT credit (.202468.4). Micheline Devaurs, manager, market transition, Los Alamos National Laboratory; and Jackie Kerby Moore, manager, government relations, Sandia National Laboratories, presented the draft of a bill that would create a "technology readiness" GRT credit. Ms. Moore acknowledged that the state is facing fiscal challenges but expressed her belief that the measure's net effect will be beneficial. She summarized the bill's background, reasons it would work well in New Mexico and some of its features. Ms. Devaurs noted that the measure would help continue technology development and give the laboratories an incentive to license technologies.

Questions and Discussion

Members: 1) remarked that the state has difficulty keeping companies in New Mexico and asked how the measure would encourage them to stay; and 2) pointed out that a laboratory that invests in a technology whose prototype does not come about would not meet the requirement for the credit. Ms. Moore: 1) elaborated that this measure would give laboratories an incentive to allow their scientists to work with companies on marketing technologies; 2) said that the measure's cost is a small fraction of what the laboratories generate annually in GRT

revenue; and 3) explained that the 10-year sunset was decided on after considering what time would be needed for the laboratories to adequately demonstrate the program's value.

The committee resolved not to vote on endorsing the bill since its fiscal impact was not known.

GRT exemption for the sale of access to private land for hunting or fishing (.202553.3).
Gerald Chacón, chair, Federal and Trust Lands Subcommittee, New Mexico Cattle Growers' Association, presented a draft bill that would exempt from the GRT sales by landowners of access to private land for hunting or fishing.

First, Demesia Padilla, secretary of taxation and revenue, who was in the audience, gave some background as follows on the issue. The imposition of the GRT on landowners' sales of access to their land has existed for 19 years. Seventeen years ago, a taxpayer protested the department's interpretation of the tax's application, and the department prevailed in the dispute. The department recently received complaints from some paying the tax on those sales that other landowners were evading it. In response, the TRD requested records from the Department of Game and Fish and learned that taxpaying compliance in the area was low. The TRD reached out to delinquent taxpayers, offering to arrange payment plans. It also suggested that landowners who sell the authorizations through outfitters request nontaxable transaction certificates from the outfitters, which would release the landowners from having to collect and remit the tax.

Secretary Padilla added that, in the context of this matter: 1) if enacted, the exemption would not operate retroactively, and the department would continue its efforts to collect outstanding liabilities; 2) she neither supports nor objects to the proposed measure, but, rather, she seeks to enforce the law; 3) more than 120 taxpayers have entered managed audits; 4) the TRD has conducted educational workshops to broaden awareness that tax is owed on these sales; and 5) landowner sellers could pass the tax on to buyers.

Next, Mr. Chacón explained more of the bill's context. The Department of Game and Fish issues to private landowners authorizations for hunting and fishing that they may sell. Those issuances are intended to compensate the landowners for property damage caused by wildlife. In September, the TRD began notifying landowners who sold the authorizations that they were liable for the GRT on those sales, both retroactively and going forward.

Mr. Chacón criticized the department's action and the imposition of the GRT in this context, arguing that: 1) most landowners were not aware that the GRT was imposed on the sales and are having trouble remitting to the department what it asserts they owe; 2) the sales do not offset the costs to landowners of repairing damage caused by wildlife, like elk, and by drought; 3) it is inconsistent that the state, on the one hand, actively compensates landowners for such natural disturbances by issuing the authorizations and, on the other hand, requires the remittance of some of that benefit's value.

Some audience members spoke in support of the proposed measure. David Sanchez, a rancher from the Chama Valley, underscored that often the cost of damage by wildlife exceeds the sales' value. Tom Sidwell, a rancher and president-elect of the New Mexico Cattle Growers' Association, argued that if the state compensated landowners directly, rather than using the authorization sale approach, that compensation would not be subject to the GRT. Zach Riley, director of governmental affairs, New Mexico Farm and Livestock Bureau, expressed disagreement with the interpretation that the GRT applies to these sales, given that the authorizations are a form of reimbursement for landowners' losses. Lastly, Kerrie Cox Romero, executive director, New Mexico Council of Outfitters and Guides, informed the committee that outfitters routinely pay the GRT on these sales, and that the issue deals not with landowners working with outfitters, but rather with landowners who sell authorizations directly to hunters.

Questions and Discussion

A member questioned why authorizations for fishing were included in the proposed exemption. The member also expressed concern that the exemption, as drafted, would apply to wealthy landowners who arguably do not need the relief, pointing out that such breadth would exacerbate the measure's fiscal impact. After the suggestion was made to enact a law in this context forgiving outstanding taxes owed, a committee staff member noted that such forgiveness was unconstitutional. The committee resolved to continue work on the draft.

Using the Law Enforcement Protection Fund for law enforcement officer retention (.202480.4). Senator Munoz presented the draft of a bill that would allow money in the Law Enforcement Protection Fund to be used for lump-sum payments to retain municipal and county law enforcement officers. He stated that the DFA would administer the program, which would address the concern for pension fund solvency, allow for payments to officers of about \$10,000 to \$25,000 each and cost about \$7.6 million. Wayne Propst, executive director, Public Employees Retirement Association (PERA), who was in the audience, said that the measure would help with retention issues and would exclude lump-sum payments from pension calculations and that the PERA board would consider the measure at its next meeting. Gregory J. Fouratt, secretary of public safety; Shaun Willoughby, president, Albuquerque Police Officers Association; and Josh Anderson, political coordinator, AFSCME Council 18, who were in the audience, testified in favor of the measure.

Questions and Discussion

On questioning, the presenters and committee members addressed the following topics.

Program cost and administration. Mr. Propst said that money in the fund has historically reverted to the general fund, and Senator Munoz noted the possibility that, in the future, the program would need appropriations from another fund. Secretary Fouratt reported that a recent survey revealed interest in a proposed program in which incremental payments are made over a three-year period. That structure, he said, would preclude the need for a clawback provision. Secretary Fouratt expressed his belief that, since the cost of training law enforcement officers is high, the money would be well-spent.

Committee feedback. Members articulated criticisms of the proposal as follows: 1) the benefit would most likely concentrate in Albuquerque; 2) poor culture and leadership are at the root of many of the Albuquerque Police Department's problems, and this measure could not correct those deficiencies; 3) this issue is more appropriately handled at the local level, as evidenced by the local governments that have addressed the issue; 4) local governments could pay for similar measures with money from hold harmless payments and GRT increments; 5) the money proposed to be used for this program would otherwise revert to the general fund and that money, consequently, would not be available for other appropriations, such as those for education; 6) the proposal should include a cap and a mechanism for more universal distribution; and 7) the proposal is overly broad in that it would give the benefit to high-ranking officers and that "retain" encompasses more than retirement. Other members spoke in favor of the measure, arguing that Albuquerque's crime levels affect the entire state's well-being and that a concerted effort should be made to address the problem.

With eight members in opposition, the committee voted against endorsing the bill.

Return to work for public employees (.202567.5). Representative Harper, joined by Erick Petz and Brian Dolan, firefighters with the City of Rio Rancho Fire and Rescue Department, presented the draft of a bill that would encourage retirement-eligible employees to participate in a program in which they continue their public employment. Representative Harper explained that the measure was a way to avoid the issue of "double dipping". He further explained that, during the extended employment period, an employee's pension payments would accrue in an investment account and be payable upon retirement. Mr. Petz and Mr. Dolan testified in support of the proposed measure, saying that it would improve employee retention and public safety. Mr. Anderson, who was in the audience, commented that he had not looked closely at the measure, but it appeared to constitute double dipping.

Questions and Discussion

A member remarked that the program might reduce the number of opportunities for people wishing to enter public safety careers. Mr. Petz replied that it could have that effect, but it would ultimately help improve the quality of the public safety workforce. Representative Harper clarified that the bill as drafted would apply to all public employees; but, he said, it could be narrowed to apply only to certain employee types, such as rank-and-file public safety officers. When advised by Mr. Propst that an actuarial study could be performed since a bill has been drafted, Representative Harper pulled the bill from consideration for endorsement.

Adjournment

There being no further business before the committee, the RSTP adjourned at 12:50 p.m.